

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

FEDERICO FERIA,

Petitioner,

v.

UNITED STATES,

Respondent.

Civil Action No. 16-0825 (MAS)

MEMORANDUM ORDER

This matter comes before the Court on a Petition for Writ of Habeas Corpus filed by Petitioner Federico Feria pursuant to 28 U.S.C. § 2241, challenging the judgment and sentence imposed by Judge Joel A. Pisano, then a district judge of this district, in *United States v. Feria*, No. 09-cr-0518, ECF No. 39 (D.N.J. entered Oct. 21, 2010).

Although Petitioner files his Petition under § 2241, Judge Pisano has already informed him, in an opinion addressing his motion for reconsideration in the criminal case, that the proper avenue to attack the validity of his criminal judgment and/or sentence is through a motion under 28 U.S.C. § 2255. *Feria v. United States*, No. 12-6621, ECF No. 2, slip op. at 4 (D.N.J. filed Nov. 26, 2012). A review of the record reveals the reason for Petitioner's filing of a § 2241 petition—he appears to be out of time to file a § 2255 motion. However, in order to for a federal prisoner to seek post-conviction relief under § 2241, the petitioner must show that “a § 2255 motion is ‘inadequate or ineffective to test the legality of his detention.’” *Long v. Fairton*, 611 F. App'x 53, 54-55 (3d Cir. 2015) (quoting 28 U.S.C. § 2255(e)). “Critically, § 2255 is not inadequate or ineffective merely because the petitioner cannot satisfy § 2255's timeliness or other gatekeeping requirements.” *Id.* at 55. As such, the Court finds that the instant Petition is improperly filed under § 2241, and shall

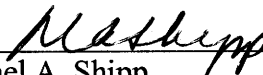
be dismissed. *See* Rule 4 of Rules Governing Section 2254 Cases, applicable to § 2241 cases via Rule 1(b) ("If it plainly appears from the petition . . . that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.").

IT IS therefore on this 22nd day of February, 2016,

ORDERED that Petitioner's *in forma pauperis* application, ECF No. 1-1, is hereby **GRANTED**; it is further

ORDERED that the Petition, ECF No. 1, is hereby **DISMISSED**; and it is further

ORDERED that the Clerk shall serve this Order upon Petitioner by regular mail, and shall **CLOSE** the file.



Michael A. Shipp
United States District Judge